

Calendar No. 724

111TH CONGRESS
2^D SESSION

S. 3798

To authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum humane standards of health, sanitation, and safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2010

Mr. LEAHY (for himself and Mr. BROWNBACK) introduced the following bill;
which was read twice and referred to the Committee on Foreign Relations

DECEMBER 21, 2010

Reported by Mr. KERRY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum humane standards of health, sanitation, and safety, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Foreign Prison Condi-
3 tions Improvement Act of 2010”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) Millions of incarcerated people in the world
7 suffer inhumane conditions in prisons and other de-
8 tention facilities that are overerowed, unsanitary,
9 and unsafe to the point of endangering their lives.

10 (2) According to a 2009 International Centre
11 for Prison Studies report, there are an estimated
12 9,800,000 people held in penal institutions in the
13 world, with prison populations increasing in 71 per-
14 cent of the over 200 countries surveyed.

15 (3) Rates of malnutrition, disease, and death
16 among prisoners and other detainees far exceed
17 those of the general population, and medical treat-
18 ment for serious illness or injury is, in many in-
19 stances, non-existent or grossly inadequate.

20 (4) These conditions are compounded by severe
21 overcrowding in prisons and other detention facili-
22 ties. Excessive pre-trial detention and dysfunctional
23 justice systems frequently result in prisoners and
24 other detainees spending years in such conditions be-
25 fore their cases are adjudicated. In some countries,
26 such facilities are filled to capacity many times over

1 resulting in conditions so cramped that individual
2 prisoners cannot move without all doing so en
3 masse.

4 (5) Amnesty International's 2009 State of the
5 World's Human Rights Report documented wide-
6 spread inhumane prison conditions, including over-
7 crowding, inadequate food and water, no access to
8 hygiene products or medical care, juveniles detained
9 with adults, and denial of visits from family.

10 (6) Some governments fail to provide even the
11 most rudimentary sanitation in prisons and other
12 detention facilities, putting prisoners and other de-
13 tainees at even greater risk of easily preventable and
14 often life-threatening diseases. Toilets are few or
15 non-existent and human waste repositories often are
16 located among the general prison population, forcing
17 prisoners to eat, sleep, and live in grossly unsanitary
18 conditions.

19 (7) According to a 2009 report by the United
20 Nations Economic and Social Council's Commission
21 on Crime Prevention and Criminal Justice, former
22 prisoners are likely to spread diseases contracted in
23 prison to the local population.

24 (8) Some governments fail to permit prisoners
25 and other detainees reasonable exercise of religious

1 worship or contact with family members or other
2 visitors.

3 (9) According to the United States Commission
4 on International Religious Freedom's 2009 Annual
5 Report, religious prisoners have been confined to
6 overcrowded cells, exposed to extreme temperature
7 fluctuations, denied adequate food and medical care,
8 and denied access to clergy and religious literature.

9 (10) Inhumane conditions in prisons and other
10 detention facilities often exist in countries where re-
11 sources for law enforcement are limited and only a
12 small fraction of such resources are made available
13 for the operation and maintenance of prisons and
14 other detention facilities. Inadequate, misplaced, or
15 lost prison records often result in prisoners and de-
16 tainees being incarcerated indefinitely because of
17 never being tried or otherwise adjudicated, and being
18 held long after their sentences have expired thereby
19 further swelling prison populations. Allocating the
20 relatively modest resources necessary to provide for
21 the basic human needs of prisoners and other de-
22 tainees and to remediate the inhumane conditions
23 under which such prisoners are held is often a low
24 priority.

1 (11) The United States Government currently
2 provides significant amounts of assistance to coun-
3 tries whose governments operate prisons and other
4 detention facilities that, because of their inhumane
5 conditions, seriously jeopardize the lives of prisoners
6 and other detainees held under their authority.

7 (12) The Department of State's 2009 Country
8 Reports on Human Rights Practices reported prison
9 conditions as poor, inhumane, or life threatening in
10 more than 100 countries, all of which receive United
11 States assistance.

12 (13) The United States Government should use
13 its influence and resources to help ensure that gov-
14 ernments that receive United States assistance do
15 not operate prisons and other detention facilities
16 under inhumane conditions. The United States Gov-
17 ernment also should assist countries that are making
18 significant efforts to eliminate inhumane conditions
19 in prisons and other detention facilities.

20 (14) Eliminating inhumane conditions in for-
21 eign prisons and other detention facilities will
22 strengthen the rule of law, save lives, and enhance
23 the health and well-being of vulnerable people in
24 poor countries, and it will advance United States in-
25 terests.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
4 **TEES.**—The term “appropriate congressional com-

5 mittees” means—

6 (A) the Committee on Appropriations and
7 the Committee on Foreign Relations of the Sen-
8 ate; and

9 (B) the Committee on Appropriations and
10 the Committee on Foreign Affairs of the House
11 of Representatives.

12 (2) **MINIMUM STANDARDS FOR THE ELIMI-**
13 **NATION OF INHUMANE CONDITIONS IN FOREIGN**
14 **PRISONS AND OTHER DETENTION FACILITIES.**—The
15 term “minimum standards for the elimination of in-
16 humane conditions in prisons and other detention fa-
17 cilities” means, with respect to the operation or
18 maintenance of prisons and other detention facilities
19 in a foreign country that is a recipient of United
20 States assistance, the following:

21 (A) The number of inmates or detainees
22 held in a facility does not so exceed prison ca-
23 pacity such that per capita floor space is insuf-
24 ficient to allow for humane sleeping conditions
25 and reasonable physical movement.

1 (B) Human waste facilities are sanitary
2 and accessible, and human waste is disposed of
3 regularly and in a sanitary manner.

4 (C) The lighting, ventilation, temperature,
5 and physical construction of prisons and other
6 detention facilities do not seriously endanger
7 the health and safety of prisoners.

8 (D) Prisoners and other detainees have ac-
9 cess to adequate food and potable drinking
10 water.

11 (E) Prisoners and other detainees have ac-
12 cess to essential and emergency medical care.

13 (F) To the maximum extent practicable,
14 prisoners and other detainees are allowed reli-
15 gious observance and materials, and contact
16 with clergy, family, and friends, by both cor-
17 respondence and personal visits.

18 (3) UNITED STATES ASSISTANCE.—The term
19 “United States assistance” means any non-humani-
20 tarian assistance furnished to carry out the provi-
21 sions of the Foreign Assistance Act of 1961 (22
22 U.S.C. 2151 et seq.), the Arms Export Control Act
23 (22 U.S.C. 2751 et seq.), or the Millennium Chal-
24 lenge Act of 2003 (22 U.S.C. 7701 et seq.).

1 **SEC. 4. ACTIONS TO HELP ELIMINATE INHUMANE CONDI-**
2 **TIONS IN FOREIGN PRISONS AND OTHER DE-**
3 **TENTION FACILITIES.**

4 (a) ANNUAL REPORT TO CONGRESS.—

5 (1) ANNUAL REPORT.—Not later than 180 days
6 after the date of the enactment of this Act, and an-
7 nually thereafter, the Secretary of State shall submit
8 to the appropriate congressional committees a report
9 describing the conditions in prisons and other deten-
10 tion facilities in countries receiving United States
11 assistance. The report shall include a list of those
12 countries, if any, receiving United States assistance,
13 whose governments—

14 (A) do not meet minimum standards for
15 the elimination of inhumane conditions in pris-
16 ons and other detention facilities but are mak-
17 ing significant efforts to comply; and

18 (B) do not meet such standards and are
19 not making significant efforts to comply.

20 (2) SIGNIFICANT EFFORTS.—In making deter-
21 minations under paragraph (1) as to whether the
22 government of a country is making significant ef-
23 forts to meet minimum standards for the elimination
24 of inhumane conditions in prisons and other deten-
25 tion facilities, the Secretary of State shall consider

1 the extent to which the government of the country
2 is—

3 (A) regularly monitoring the conditions of
4 prisons and other detention facilities under its
5 authority, including permitting prisoners and
6 other detainees to submit complaints without
7 censorship; cooperating with international ex-
8 perts on eliminating and monitoring inhumane
9 conditions in prisons and other detention facili-
10 ties; promptly investigating credible allegations
11 of inhumane conditions; and making informa-
12 tion concerning conditions and investigations
13 available to the public and the Secretary of
14 State;

15 (B) taking effective steps to eliminate in-
16 humane conditions in prisons and other deten-
17 tion facilities, which may include, among other
18 steps, appointing ombudsmen to serve on behalf
19 of prisoners and other detainees; providing al-
20 ternatives to incarceration for nonviolent of-
21 fenders in order to alleviate inhumane over-
22 crowding; addressing the status and cir-
23 cumstances of confinement of juveniles; improv-
24 ing pretrial detention practices; and imple-
25 menting bail and recordkeeping procedures to

1 reduce pretrial detention periods and to ensure
 2 that prisoners do not serve beyond the max-
 3 imum sentence for the charged offense; and

4 (C) increasing the amount of government
 5 resources to eliminate inhumane conditions in
 6 prisons and other detention facilities.

7 (3) USE OF COUNTRY REPORTS.—The report
 8 required under paragraph (1) may draw from the
 9 discussion of prison conditions contained in the
 10 Country Reports on Human Rights Practices re-
 11 quired under sections 116(d) and 502B(b) of the
 12 Foreign Assistance Act of 1961 (22 U.S.C.
 13 2151n(d) and 2304(b)), but shall for each country
 14 provide a detailed and up to date report covering,
 15 whenever possible, each of the issues set forth in sec-
 16 tion 3(2).

17 (4) PUBLICATION.—The report required under
 18 paragraph (1) shall be made available to the public,
 19 including on a publicly available website of the De-
 20 partment of State.

21 (b) ASSISTANCE FOR GOVERNMENTS MAKING SIG-
 22 NIFICANT EFFORTS TO ELIMINATE INHUMANE CONDI-
 23 TIONS IN PRISONS AND OTHER DETENTION FACILI-
 24 TIES.—

1 (1) IN GENERAL.—The Secretary of State and
2 the Administrator of the United States Agency for
3 International Development should furnish assistance
4 for the purpose of helping to eliminate inhumane
5 conditions in prisons and other detention facilities to
6 countries whose governments do not meet minimum
7 standards for the elimination of inhumane conditions
8 in prisons and other detention facilities but are mak-
9 ing significant efforts to comply.

10 (2) INAPPLICABILITY OF FOREIGN ASSISTANCE
11 ACT PROHIBITION.—The prohibitions under section
12 660 of the Foreign Assistance Act of 1961 (22
13 U.S.C. 2420) shall not be applicable to assistance
14 furnished to carry out the provisions of paragraph
15 (1).

16 (3) GRANT FUNDS.—Grants made under this
17 subsection shall be designated and used exclusively
18 to help eliminate inhumane conditions in the country
19 receiving the grant, but may not include the con-
20 struction of new prisons. Funds made available
21 under this section shall be subject to the regular no-
22 tification procedures of the Committees on Appro-
23 priations of the Senate and the House of Represent-
24 atives.

1 (c) NEGOTIATIONS WITH GOVERNMENTS NOT MAK-
 2 ING SIGNIFICANT EFFORTS TO ELIMINATE INHUMANE
 3 CONDITIONS IN PRISONS AND OTHER DETENTION FA-
 4 CILITIES.—

5 (1) NEGOTIATIONS.—In the case of a govern-
 6 ment receiving United States assistance that is listed
 7 in the report submitted under subsection (a)(1)(B)
 8 as not making significant efforts to eliminate inhu-
 9 mane conditions in prisons and other detention fa-
 10 cilities, the Secretary of State shall, not later than
 11 90 days after the date such report is submitted,
 12 enter into negotiations with such government to
 13 achieve the purposes of this Act.

14 (2) ACTIONS REGARDING ASSISTANCE AND
 15 VISAS.—

16 (A) ASSISTANCE.—The Secretary of State
 17 and the Administrator of the United States
 18 Agency for International Development may re-
 19 structure, reprogram, or reduce United States
 20 assistance for a government described in para-
 21 graph (1) to achieve the purposes of this Act.

22 (B) VISAS.—The Secretary of State may
 23 issue or deny visas for travel to the United
 24 States by officials of a government described in

1 paragraph (1) to achieve the purposes of this
2 Act.

3 ~~(3) REPORT.~~—Not later than 180 days after
4 the beginning of the negotiations required under
5 paragraph (1), the Secretary shall submit to the ap-
6 propriate congressional committees a report describ-
7 ing the actions taken or agreed to be taken, if any,
8 during such negotiations by the government of that
9 country that constitute significant efforts to elimi-
10 nate inhumane conditions in prisons and other de-
11 tention facilities and the actions taken, or that will
12 be taken, by the United States pursuant to para-
13 graph (2) regarding assistance and visas. If the Sec-
14 retary determines that United States assistance to
15 such government should not be restructured, repro-
16 grammed, or reduced, or that visas should be issued
17 or denied to officials of such government, the report
18 shall contain a detailed explanation for that decision.

19 **SEC. 5. TRAINING FOR FOREIGN SERVICE OFFICERS.**

20 Section 708 of the Foreign Service Act of 1980 (22
21 U.S.C. 4028) is amended by adding at the end the fol-
22 lowing new subsection:

23 “(d) The Secretary of State, with the assistance of
24 other relevant officials, shall establish as part of the stand-
25 ard training provided for chiefs of mission, deputy chiefs

1 of mission, and other officers of the Service who are or
 2 will be involved in the assessment of conditions in foreign
 3 prisons and other detention facilities or the drafting of the
 4 annual Country Reports on Human Rights Practices, in-
 5 struction on matters related to conditions in such prisons
 6 and other detention facilities and the substance of the
 7 Foreign Prison Conditions Improvement Act of 2010.”.

8 **SEC. 6. NEW POSITION TO MONITOR FOREIGN PRISON CON-**
 9 **DITIONS.**

10 The Secretary of State shall establish, within the Bu-
 11 reau of Democracy, Human Rights, and Labor, a new full-
 12 time equivalent Deputy Assistant Secretary level position
 13 which shall have responsibility for advancing the purposes
 14 of this Act.

15 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

16 The Secretary of State may use funds available for
 17 any fiscal year to carry out the provisions of part I and
 18 chapter 4 of part II of the Foreign Assistance Act of 1961
 19 (22 U.S.C. 2151 et seq. and 22 U.S.C. 2346 et seq.) and
 20 the Support for East European Democracy (SEED) Act
 21 of 1989 (22 U.S.C. 5401 et seq.) to carry out the provi-
 22 sions of section 4(b) and section 6 of this Act and section
 23 708(d) of the Foreign Service Act of 1980, as added by
 24 section 5.

1 **SEC. 8. RULE OF CONSTRUCTION.**

2 For purposes of this Act—

3 (1) the prohibitions of section 104(f) of the
 4 Foreign Assistance Act of 1961 (22 U.S.C.
 5 2151b(f)) shall apply and shall not be construed to
 6 be altered by this Act; and

7 (2) the minimum standards for foreign prisons
 8 and other detention facilities shall not be determined
 9 based on the provision of services for which funding
 10 is prohibited by that section.

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Foreign Prison Condi-*
 13 *tions Improvement Act of 2010”.*

14 **SEC. 2. FINDINGS.**

15 *Congress makes the following findings:*

16 (1) *Millions of incarcerated people in the world*
 17 *suffer inhumane conditions in prisons and other de-*
 18 *tention facilities that are overcrowded, unsanitary,*
 19 *and unsafe to the point of endangering their lives.*

20 (2) *According to a 2009 International Centre for*
 21 *Prison Studies report, there are an estimated*
 22 *9,800,000 people held in penal institutions in the*
 23 *world, with prison populations increasing in 71 per-*
 24 *cent of the over 200 countries surveyed.*

25 (3) *Rates of malnutrition, disease, and death*
 26 *among prisoners and other detainees far exceed those*

1 of the general population, and medical treatment for
 2 serious illness or injury is, in many instances, non-
 3 existent or grossly inadequate.

4 (4) These conditions are compounded by severe
 5 overcrowding in prisons and other detention facilities.
 6 Excessive pre-trial detention and dysfunctional justice
 7 systems frequently result in prisoners and other de-
 8 tainees spending years in such conditions before their
 9 cases are adjudicated. In some countries, such facili-
 10 ties are filled to capacity many times over resulting
 11 in conditions so cramped that individual prisoners
 12 cannot move without all doing so en masse.

13 (5) Amnesty International's 2009 State of the
 14 World's Human Rights Report documented wide-
 15 spread inhumane prison conditions, including over-
 16 crowding, inadequate food and water, no access to hy-
 17 giene products or medical care, juveniles detained
 18 with adults, and denial of visits from family.

19 (6) Some governments fail to provide even the
 20 most rudimentary sanitation in prisons and other de-
 21 tention facilities, putting prisoners and other detain-
 22 ees at even greater risk of easily preventable and often
 23 life-threatening diseases. Toilets are few or non-exist-
 24 ent and human waste repositories often are located
 25 among the general prison population, forcing pris-

1 *oners to eat, sleep, and live in grossly unsanitary con-*
2 *ditions.*

3 (7) *According to a 2009 report by the United*
4 *Nations Economic and Social Council's Commission*
5 *on Crime Prevention and Criminal Justice, former*
6 *prisoners are likely to spread diseases contracted in*
7 *prison to the local population.*

8 (8) *Some governments fail to permit prisoners*
9 *and other detainees reasonable exercise of religious*
10 *worship or contact with family members or other visi-*
11 *tors.*

12 (9) *According to the United States Commission*
13 *on International Religious Freedom's 2009 Annual*
14 *Report, religious prisoners have been confined to over-*
15 *crowded cells, exposed to extreme temperature fluctua-*
16 *tions, denied adequate food and medical care, and de-*
17 *nied access to clergy and religious literature.*

18 (10) *Inhumane conditions in prisons and other*
19 *detention facilities often exist in countries where re-*
20 *sources for law enforcement are limited and only a*
21 *small fraction of such resources are made available*
22 *for the operation and maintenance of prisons and*
23 *other detention facilities. Inadequate, misplaced, or*
24 *lost prison records often result in prisoners and de-*
25 *tainees being incarcerated indefinitely because of*

1 *never being tried or otherwise adjudicated, and being*
2 *held long after their sentences have expired thereby*
3 *further swelling prison populations. Allocating the*
4 *relatively modest resources necessary to provide for*
5 *the basic human needs of prisoners and other detain-*
6 *ees and to remediate the inhumane conditions under*
7 *which such prisoners are held is often a low priority.*

8 *(11) The United States Government currently*
9 *provides significant amounts of assistance to coun-*
10 *tries whose governments operate prisons and other de-*
11 *tention facilities that, because of their inhumane con-*
12 *ditions, seriously jeopardize the lives of prisoners and*
13 *other detainees held under their authority.*

14 *(12) The Department of State's 2009 Country*
15 *Reports on Human Rights Practices reported prison*
16 *conditions as poor, inhumane, or life threatening in*
17 *more than 100 countries, all of which receive United*
18 *States assistance.*

19 *(13) The United States Government should use*
20 *its influence and resources to help ensure that govern-*
21 *ments that receive United States assistance do not op-*
22 *erate prisons and other detention facilities under in-*
23 *humane conditions. The United States Government*
24 *also should assist countries that are making signifi-*

1 *cant efforts to eliminate inhumane conditions in pris-*
 2 *ons and other detention facilities.*

3 *(14) Eliminating inhumane conditions in for-*
 4 *oreign prisons and other detention facilities will*
 5 *strengthen the rule of law, save lives, and enhance the*
 6 *health and well-being of vulnerable people in poor*
 7 *countries, and it will advance United States interests.*

8 **SEC. 3. DEFINITIONS.**

9 *In this Act:*

10 *(1) APPROPRIATE CONGRESSIONAL COMMIT-*
 11 *TEES.—The term “appropriate congressional commit-*
 12 *tees” means—*

13 *(A) the Committee on Appropriations and*
 14 *the Committee on Foreign Relations of the Sen-*
 15 *ate; and*

16 *(B) the Committee on Appropriations and*
 17 *the Committee on Foreign Affairs of the House*
 18 *of Representatives.*

19 *(2) MINIMUM STANDARDS FOR THE ELIMINATION*
 20 *OF INHUMANE CONDITIONS IN FOREIGN PRISONS AND*
 21 *OTHER DETENTION FACILITIES.—The term “min-*
 22 *imum standards for the elimination of inhumane con-*
 23 *ditions in prisons and other detention facilities”*
 24 *means, with respect to the operation or maintenance*
 25 *of prisons and other detention facilities in a foreign*

country that is a recipient of United States assistance, the following:

(A) The number of inmates or detainees held in a facility does not so exceed prison capacity such that per capita floor space is insufficient to allow for humane sleeping conditions and reasonable physical movement.

(B) Human waste facilities are sanitary and accessible, and human waste is disposed of regularly and in a sanitary manner.

(C) The lighting, ventilation, temperature, and physical construction of prisons and other detention facilities do not seriously endanger the health and safety of prisoners.

(D) Prisoners and other detainees have access to adequate food and potable drinking water.

(E) Prisoners and other detainees have access to essential and emergency medical care.

(F) To the maximum extent practicable, prisoners and other detainees are allowed religious observance and materials, and contact with clergy, family, and friends, by both correspondence and personal visits.

(3) UNITED STATES ASSISTANCE.—The term “United States assistance” means any non-humani-

1 *tarian assistance furnished to carry out the provi-*
 2 *sions of the Foreign Assistance Act of 1961 (22 U.S.C.*
 3 *2151 et seq.), the Arms Export Control Act (22 U.S.C.*
 4 *2751 et seq.), or the Millennium Challenge Act of*
 5 *2003 (22 U.S.C. 7701 et seq.).*

6 **SEC. 4. ACTIONS TO HELP ELIMINATE INHUMANE CONDI-**
 7 **TIONS IN FOREIGN PRISONS AND OTHER DE-**
 8 **TENTION FACILITIES.**

9 *(a) ANNUAL REPORT TO CONGRESS.—*

10 *(1) ANNUAL REPORT.—Not later than 180 days*
 11 *after the date of the enactment of this Act, and annu-*
 12 *ally thereafter, the Secretary of State shall submit to*
 13 *the appropriate congressional committees a report de-*
 14 *scribing the conditions in prisons and other detention*
 15 *facilities in countries receiving United States assist-*
 16 *ance. The report shall be submitted on or proximate*
 17 *to the date of the Department of State's Country Re-*
 18 *ports on Human Rights Practices and shall include*
 19 *a list of those countries, if any, receiving United*
 20 *States assistance, whose governments—*

21 *(A) do not meet minimum standards for the*
 22 *elimination of inhumane conditions in prisons*
 23 *and other detention facilities but are making sig-*
 24 *nificant efforts to comply; and*

1 (B) do not meet such standards and are not
2 making significant efforts to comply.

3 (2) *SIGNIFICANT EFFORTS.*—In making deter-
4 minations under paragraph (1) as to whether the gov-
5 ernment of a country is making significant efforts to
6 meet minimum standards for the elimination of inhu-
7 mane conditions in prisons and other detention facili-
8 ties, the Secretary of State shall consider the extent to
9 which the government of the country is—

10 (A) regularly monitoring the conditions of
11 prisons and other detention facilities under its
12 authority, including permitting prisoners and
13 other detainees to submit complaints without
14 censorship, cooperating with international ex-
15 perts on eliminating and monitoring inhumane
16 conditions in prisons and other detention facili-
17 ties, promptly investigating credible allegations
18 of inhumane conditions, and making informa-
19 tion concerning conditions and investigations
20 available to the public and the Secretary of
21 State;

22 (B) taking effective steps to eliminate inhu-
23 mane conditions in prisons and other detention
24 facilities, which may include, among other steps,
25 appointing ombudsmen to serve on behalf of pris-

oners and other detainees, providing alternatives to incarceration for nonviolent offenders in order to alleviate inhumane overcrowding, addressing the status and circumstances of confinement of juveniles, improving pretrial detention practices, and implementing bail and recordkeeping procedures to reduce pretrial detention periods and to ensure that prisoners do not serve beyond the maximum sentence for the charged offense; and

(C) increasing the amount of government resources to eliminate inhumane conditions in prisons and other detention facilities.

(3) *USE OF COUNTRY REPORTS.*—The report required under paragraph (1) may draw from the discussion of prison conditions contained in the Country Reports on Human Rights Practices required under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)), but shall for each country provide a detailed and up to date report covering, whenever possible, each of the issues set forth in section 3(2).

(4) *PUBLICATION.*—The report required under paragraph (1) shall be made available to the public, including on a publicly available website of the Department of State.

1 (b) *ASSISTANCE FOR GOVERNMENTS MAKING SIGNIFI-*
 2 *CANT EFFORTS TO ELIMINATE INHUMANE CONDITIONS IN*
 3 *PRISONS AND OTHER DETENTION FACILITIES.*—

4 (1) *IN GENERAL.*—*The Secretary of State and*
 5 *the Administrator of the United States Agency for*
 6 *International Development should furnish assistance*
 7 *for the purpose of helping to eliminate inhumane con-*
 8 *ditions in prisons and other detention facilities to*
 9 *countries whose governments do not meet minimum*
 10 *standards for the elimination of inhumane conditions*
 11 *in prisons and other detention facilities but are mak-*
 12 *ing significant efforts to comply.*

13 (2) *INAPPLICABILITY OF FOREIGN ASSISTANCE*
 14 *ACT PROHIBITION.*—*The prohibitions under section*
 15 *660 of the Foreign Assistance Act of 1961 (22 U.S.C.*
 16 *2420) shall not be applicable to assistance furnished*
 17 *to carry out the provisions of paragraph (1).*

18 (3) *GRANT FUNDS.*—*Grants made under this*
 19 *subsection shall be designated and used exclusively to*
 20 *help eliminate inhumane conditions in the country*
 21 *receiving the grant, but may not include the construc-*
 22 *tion of new prisons. Funds made available under this*
 23 *section shall be subject to the regular notification pro-*
 24 *cedures of the Committees on Appropriations of the*
 25 *Senate and the House of Representatives.*

1 (c) *NEGOTIATIONS WITH GOVERNMENTS NOT MAKING*
2 *SIGNIFICANT EFFORTS TO ELIMINATE INHUMANE CONDI-*
3 *TIONS IN PRISONS AND OTHER DETENTION FACILITIES.—*

4 (1) *NEGOTIATIONS.—In the case of a government*
5 *receiving United States assistance that is listed in the*
6 *report submitted under subsection (a)(1)(B) as not*
7 *making significant efforts to eliminate inhumane con-*
8 *ditions in prisons and other detention facilities, the*
9 *Secretary of State shall, not later than 90 days after*
10 *the date such report is submitted, enter into negotia-*
11 *tions with such government to achieve the purposes of*
12 *this Act.*

13 (2) *ACTIONS REGARDING ASSISTANCE AND*
14 *VISAS.—*

15 (A) *ASSISTANCE.—The Secretary of State*
16 *and the Administrator of the United States*
17 *Agency for International Development may re-*
18 *structure, reprogram, or reduce United States as-*
19 *sistance for a government described in para-*
20 *graph (1) to achieve the purposes of this Act.*

21 (B) *VISAS.—The Secretary of State may*
22 *issue or deny visas for travel to the United*
23 *States by officials of a government described in*
24 *paragraph (1) to achieve the purposes of this*
25 *Act.*

1 (3) *BRIEFING*.—Not later than 180 days after
 2 the beginning of the negotiations required under
 3 paragraph (1), the Secretary shall brief the appro-
 4 priate congressional committees on the actions taken
 5 or agreed to be taken, if any, during such negotiations
 6 by the government of that country that constitute sig-
 7 nificant efforts to eliminate inhumane conditions in
 8 prisons and other detention facilities and the actions
 9 taken, or that will be taken, by the United States pur-
 10 suant to paragraph (2) regarding assistance and
 11 visas. Such information shall also be included in the
 12 annual report required under subsection (a). If the
 13 Secretary determines that United States assistance to
 14 such government should not be restructured, repro-
 15 grammed, or reduced, or that visas should be issued
 16 or denied to officials of such government, the briefing
 17 and report shall contain a detailed explanation for
 18 that decision.

19 **SEC. 5. TRAINING FOR FOREIGN SERVICE OFFICERS.**

20 Section 708 of the Foreign Service Act of 1980 (22
 21 U.S.C. 4028) is amended by adding at the end the following
 22 new subsection:

23 “(d) The Secretary of State, with the assistance of
 24 other relevant officials, shall establish as part of the stand-
 25 ard training provided for chiefs of mission, deputy chiefs

1 *of mission, and other officers of the Service who are or will*
 2 *be involved in the assessment of conditions in foreign pris-*
 3 *ons and other detention facilities or the drafting of the an-*
 4 *nual Country Reports on Human Rights Practices, instruc-*
 5 *tion on matters related to conditions in such prisons and*
 6 *other detention facilities and the substance of the Foreign*
 7 *Prison Conditions Improvement Act of 2010.”.*

8 **SEC. 6. NEW POSITION TO MONITOR FOREIGN PRISON CON-**
 9 **DITIONS.**

10 *The Secretary of State shall establish, within the Bu-*
 11 *reau of Democracy, Human Rights, and Labor, a new full-*
 12 *time equivalent Deputy Assistant Secretary level position*
 13 *which shall have responsibility for advancing the purposes*
 14 *of this Act.*

15 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

16 *(a) FOREIGN ASSISTANCE FUNDING.—In addition to*
 17 *funds otherwise available for such purposes, the Secretary*
 18 *of State may use funds available for any fiscal year to carry*
 19 *out the provisions of part I and chapter 4 of part II of*
 20 *the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.*
 21 *and 22 U.S.C. 2346 et seq.) and the Support for East Euro-*
 22 *pean Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et*
 23 *seq.) to carry out the provisions of section 4(b) of this Act,*
 24 *including for administrative expenses.*

1 **(b) DIPLOMATIC AND CONSULAR AFFAIRS FUNDING.**—
 2 *In addition to funds otherwise available for such purposes,*
 3 *the Secretary of State may use funds available for any fis-*
 4 *cal year to the Department of State for Diplomatic and*
 5 *Consular Programs to carry out the provisions of section*
 6 *6 of this Act and section 708(d) of the Foreign Service Act*
 7 *of 1980, as added by section 5, including for administrative*
 8 *expenses.*

9 **SEC. 8. RULE OF CONSTRUCTION.**

10 *For purposes of this Act—*

11 *(1) the prohibitions of section 104(f) of the For-*
 12 *eign Assistance Act of 1961 (22 U.S.C. 2151b(f)) shall*
 13 *apply and shall not be construed to be altered by this*
 14 *Act; and*

15 *(2) the minimum standards for foreign prisons*
 16 *and other detention facilities shall not be determined*
 17 *based on the provision of services for which funding*
 18 *is prohibited by that section.*

Calendar No. 724

11TH CONGRESS
2^D Session

S. 3798

A BILL

To authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum humane standards of health, sanitation, and safety, and for other purposes.

DECEMBER 21, 2010

Reported with an amendment